



## APPENDIX A TO PETITIONER'S BRIEF

### INFORMATION OR COMPLAINT BOYD CASE

DISTRICT COURT OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK FOR JULY TERM IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND EIGHTY-FOUR

Before the Honorable Addison Brown, the District Judge.

On the 10th of July, in the year one thousand eight hundred and eighty-four, comes Elihu Root, as the attorney of the United States for the southern district of New York, to prosecute a civil action in which the United States are interested, in a cause of seizure and forfeiture of property under revenue laws of the United States, and informs the court—

That on the 3d day of July, in the year one thousand eight hundred and eighty-four, William H. Robertson, collector of customs of the port and collection district of the city of New York, seized on land the property described as E. A. B., 1-35, thirty-five cases plate glass, which he now has within said southern district of New York, as forfeited to the United States, for the cases propounded in the following articles:

For that on or about the 3d day of July, 1884, the said goods, wares, and merchandise were imported and brought to the United States, to wit, unto the port of New York in the third district of the city of New York, from St. Helens, a foreign port or place, by way of Liverpool, in a ship or vessel called the Alaska, and were when so imported subject to the payment of duties to the United States.

For that afterwards, to wit, on or about the 4th day of June, one thousand eight hundred and eighty-four, the owners or agents of the said merchandise, or some other person or persons now unknown to said collector and the said attorney, with intent to defraud the revenue, made or attempted to make his entry of said merchandise, which was then and there subject to duty, and had been imported into the United States within said district of the city of New York from St. Helens, a foreign port or place, by way of Liverpool, in the ship or vessel Alaska, by means of a

false or fraudulent invoice, affidavit, letter, and paper, and by means of false statements, written and verbal, by means whereof the United States were deprived of the lawful duties, or a portion thereof, accruing upon the merchandise, or a portion thereof, embraced and referred to in such invoice, affidavit, letter, and paper, and such false statements, the cases whose contents herein are proceeded against for forfeiture, then and there containing particular articles of merchandise to which said alleged frauds related, contrary to the 12th section of the Act of Congress approved the 22d day of June, 1874, entitled "An act to amend the customs-revenue laws and to repeal moities."

That on or about the 4th day of June, one thousand eight hundred and eighty-four, the owners, importers, consignees, or agents of the said merchandise, or some other person or persons now unknown to the collector and attorney, with intent to defraud the revenue, made or attempted to make an entry of such merchandise which was then and there subject to duties, and had been imported into the United States within the said district of the city of New York, from St. Helens, a foreign port or place, by way of Liverpool, in the ship or vessel *Alaska*, and that the said owners, importers, consignees or agents, and other person or persons unknown, was and were guilty of certain acts and omissions whereby the United States was deprived of the lawful duties, or a portion thereof, accruing on the merchandise, or a portion thereon, affected by said acts and omissions, the cases whose contents are herein proceeded against for forfeiture, then and there containing particular articles of merchandise to which said alleged frauds and said acts and omissions related, contrary to the 12th section of the act of Congress approved June 22, 1874.

And thereupon, and by reason of all and singular the premises aforesaid, the said attorney for the United States, on behalf of the United States, prays the court that due proceedings be issued to enforce the said forfeiture of the said goods, wares, and merchandise, and to give notice to all persons concerned in or interested to appear and show cause on the return day of process why the said forfeiture should not be denied.

ELIHU ROOT,  
*U. S. Attorney.*

*Judgment*

The jury empaneled to try the issue joined between the United States of America, informants, against thirty-five cases of plate glass, marked E.A.B. 1-35. Edward A. and George H. Boyd, claimants, having, by their verdict, found for the United States, condemning the said goods, it is thereupon, on motion of the United States District Attorney, ordered that the above-mentioned goods, wares, and merchandise be, and the same are hereby accordingly condemned as forfeited to the United States.

And it is further ordered, that unless an appeal or writ of error be taken to this discece within the time limited by law and prescribed by the rules and practice of this court that the clerk of this court issue a writ of venditioni exponeas to the marshal of the district, returnable on the first Tuesday of May next, and that on the return of said writ he distribute the proceeds according to law.

ADDISON BROWN.

# 18 STATS. AT L. 187—THE BOYD CASE STATUTE

Section 5. That in all suits and proceedings other than criminal arising under any of the revenue laws of the United States, the attorney representing the Government, whenever, in his belief, any businessbook, invoice, or paper, belonging to or under the control of the defendant or claimant, will tend to prove any allegation made by the United States may make a written motion, particularly describing such book invoice, or paper, and setting forth the allegation which he expects to prove; and thereupon the court in which suit or proceeding is pending may, at its discretion, issue a notice to the defendant or claimant to produce such book, invoice, or paper in court, at a day and hour to be specified in said notice which, together with a copy of said motion, shall be served formally on the defendant or claimant by the United States Marshal by delivering to him a certified copy thereof, or otherwise serving the same as original notices of suit in the same court are served; and if the defendant or claimant shall fail or refuse to produce such book, invoice or paper in obedience to such notice, the allegations stated in said motion shall be taken as confessed unless his failure or

refusal to produce the same shall be explained to the satisfaction of the court. And if produced, the said attorney shall be permitted under the direction of the court, to make examination (at which examination the defendant or claimant, or his agent, may be present) of such entries in said book, invoice, or paper as relate to or tend to prove the allegation aforesaid, and may offer the same in evidence on behalf of the United States. But the owner of said books and papers, his agent or attorney, shall have, subject to the order of the court, the custody of them, except pending their examination in court as aforesaid.

Section 12. That any owner, importer, consignee, agent, or other person who shall, with intent to defraud the revenue, make or attempt to make, any entry of imported merchandise, by means of any fraudulent or false invoice, affidavit, letter, or paper, or by means of any false statement, written or verbal, or who shall be guilty of any willful act or omission by means whereof the United States shall be deprived of the lawful duties, or any portion thereof accruing upon the merchandise, or any portion thereof, embraced or referred to in such invoice, affidavit, letter, paper, or statement or affected by such act or omission, shall, for each offense, be fined any sum not exceeding five thousand dollars nor less than fifty dollars, or be imprisoned for any time not exceeding two years, or both; and, in addition to such fine, such merchandise shall be forfeited; which forfeiture shall only apply to the whole of the merchandise in the case or package containing the particular article of articles of merchandise to which such fraud or alleged fraud relates; and anything contained in any act which provides for the forfeiture or confiscation of an entire invoice in consequence of any item or items contained in the same being undervalued, be, and the same is hereby repealed.

#### *Sections of Food Act*

21 U. S. C. A. 14. Any article of food, drug, or liquor that is adulterated or misbranded within the meaning of sections 1 to 15, inclusive, of this title, and is being transported from one State, Territory, District, or insular pos-

session to another for sale, or, having been transported, remains unloaded, unsold, or in original unbroken packages, or if it be sold or offered for sale in the District of Columbia or the Territories, or insular possessions of the United States, or if it be imported from a foreign country for sale, or if it is intended for export to a foreign country, shall be liable to be proceeded against in any district court of the United States within the district where the same is found, and seized for confiscation by a process of libel for condemnation. And if such article is condemned as being adulterated or misbranded, or of a poisonous or deleterious character, within the meaning of said sections, the same shall be disposed of by destruction or sale, as the said court may direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States, but such goods shall not be sold in any jurisdiction contrary to the provisions of said sections or the laws of that jurisdiction. Upon the payment of the costs of such libel proceedings and the execution and delivery of a good and sufficient bond to the effect that such articles shall not be sold or otherwise disposed of contrary to the provisions of said sections, or the laws of any State, Territory, District, or insular possession, the court may by order direct that such articles be delivered to the owner thereof. The proceedings of such libel cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact any such case, and all such proceedings shall be at the suit of and in the name of the United States.

#### *Records of other Departments and Agencies*

21 U. S. C. A. 372. (c) For the purposes of enforcement of this chapter, records of any department or independent establishment in the executive branch of the Government shall be open to inspection by any official of the Agency of Agriculture duly authorized by the Administrator to make such inspection. June 25, 1938, c. 675, sec. 702, 52 Stat. 1056.

#### *Records of Interstate Shipment*

21 U. S. C. A. 373. For the purpose of enforcing the provisions of this chapter, carriers engaged in interstate

commerce, and persons receiving food, drugs, devices, or cosmetics in interstate commerce or holding such article so received, shall, upon the request of an officer or employee duly designated by the Administrator, permit such officer or employee, at reasonable times to have access to and to copy all records showing the movement in interstate commerce of any food, drug, device, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper and consignee thereof.

### *Factory Inspection*

21 U. S. C. A. 374. For purposes of enforcement of this chapter, officers or employees duly designated by the Administrator, after first making request and obtaining permission of the owner, operator, or custodian thereof, are authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment in which food, drugs, devices, or cosmetics are manufactured, processed, packed, or held, for introduction into interstate commerce or are held after such introduction, or to enter any vehicle being used to transport or hold such food, drugs, devices, or cosmetics in interstate commerce; and (2) to inspect, at reasonable times, such factory, warehouse, establishment, or vehicle and all pertinent equipment.

### *Criminal Penalties*

21 U. S. C. A. 1. It shall be unlawful for any person to manufacture within any Territory or the District of Columbia any article of food or drug which is adulterated or misbranded, within the meaning of sections 1 to 15, inclusive, of this title; and any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and for each offense shall, upon conviction thereof, be fined not to exceed \$500 or shall be sentenced to one year's imprisonment, or both such fine and imprisonment, in the discretion of the court, and for each subsequent offense and conviction thereof shall be fined not less than \$1,000 or sentenced to one year's imprisonment, or both such fine and imprisonment, in the discretion of the court. (June 30, 1906, c. 3915, sec. 1, 34 Stat. 768).

21 U. S. C. A. 2. The introduction into any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or from any foreign country, or shipment to any foreign country of any article of food or drugs which is adulterated or misbranded, within the meaning of sections 1 to 15, inclusive, of this title, is prohibited; and any person who shall ship or deliver for shipment from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, or to a foreign country, or who shall receive in any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or foreign country and having so received, shall deliver, in original unbroken packages, for pay or otherwise, or offer to deliver to any other person, any such article so adulterated or misbranded within the meaning of said sections, or any person who shall sell or offer for sale in the District of Columbia or the Territories of the United States any such adulterated or misbranded foods or drugs, or export or offer to export the same to any foreign country, shall be guilty of a misdemeanor, and for such offense be fined not exceeding \$200 for the first offense, and upon conviction for each subsequent offense not exceeding \$300 or be imprisoned not exceeding one year, or both, in the discretion of the court. No article shall be deemed misbranded or adulterated within the provisions of said sections when intended for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is intended to be shipped; but if said article shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of any of the other provisions of the sections hereinbefore enumerated. (June 30, 1906, c. 3915, sec. 2, 34 Stat. 768).